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16 fka The Bank of New York as Trustee for
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18 Asset-Backed Certificates, Series 2005-13*

19 **UNITED STATES DISTRICT COURT**
20 **DISTRICT OF NEVADA**

21 THE BANK OF NEW YORK MELLON FKA
22 THE BANK OF NEW YORK AS TRUSTEE
23 FOR THE REGISTERED HOLDERS OF THE
24 CWABS, INC., ASSET-BACKED
25 CERTIFICATES, SERIES 2005-13,

26 Plaintiff,

27 v.
28 NORTHGATE HOMEOWNERS
ASSOCIATION; NEVADA ASSOCIATION
SERVICES; MARIA LOYO-MORALES;
KIMBERLY TIBONI; DOES 1-10,

29 Defendants.

30 Case No.: 2:16-cv-02400-MMD-VCF

31 **AMENDED DISCOVERY PLAN AND
32 SCHEDULING ORDER**

33 The Bank of New York Mellon fka The Bank of New York as Trustee for the registered holders
34 of the CWABS, Inc., Asset-Backed Certificates, Series 2005-13 (**BoNYM**), Maria Loyo-Morales,
35 Northgate Homeowners Association (**Northgate**), and Nevada Association Services (**NAS**) file their
36 joint discovery plan and proposed scheduling order.

37 1. **Meeting:** Pursuant to FRCP 26(f) and LR 26-1(a)(1), counsel for the parties, Scott R.
38 Lachman, Esq., R. Christopher Reade Esq. and Chad A. Harrison, Esq., conferred before Judge Cam

1 Ferenbach on September 13, 2023. Mr. Lachman also conferred with counsel for Nevada Association
2 Services, Brandon Wood, Esq., in advance of the September 13 meeting.

3 **2. Active Claims:** As discussed at the September 13, 2023 meeting, there are currently
4 no active claims against Defendants Northgate or NAS following the Bankruptcy Court's retroactive
5 lifting of the automatic bankruptcy stay and affirmation of the validity of the foreclosure sale.
6 However, as this issue and other claims and cross-claims remain somewhat unsettled, Defendants
7 Northgate and NAS agree to provisional participation in the discovery process as outlined below.

8 **3. Pre-Discovery Disclosures:** Pursuant to FRCP Rule 26(a)(1), the parties will make
9 their pre-discovery disclosures, including but not limited to any computation(s) of damages required
10 pursuant to FRCP 26(a)(1)(A)(iii), by **Wednesday, September 27, 2023**.

11 **4. Areas of Discovery:** Discovery should include, but not be limited to: all claims and
12 defenses allowed pursuant to the Federal Rules of Civil Procedure.

13 **5. Discovery Plan: Special Scheduling Review Requested:** The parties request a
14 discovery plan of 215 days which was agreed to at the case management conference on September 13,
15 2023.

16 **6. Discovery Cut-Off Dates:** The parties propose that discovery must be commenced and
17 completed no later than **Monday, April 15, 2024**, and be conducted as follows:

18 **A. Amending the Pleadings and Adding Parties:** The parties shall have until
19 **Monday, October 13, 2023**, to file any motions to amend the pleadings to add parties.

20 **B. FRCP 26(a)(2) Disclosures of Experts:** Expert witness disclosures shall be
21 made on or before **Thursday, February 15, 2024**, sixty (60) days prior to the discovery cut-off.
22 Disclosures regarding rebuttal experts shall be made on or before **Monday, March 18, 2024**, thirty
23 (30) days after the initial disclosures of experts. The requirements of FRCP 26(a)(2)(B) shall apply to
24 any such disclosures.¹

25 **C. Dispositive Motions:** The parties shall have until **Wednesday, May 15, 2024**,
26 to file dispositive motions, thirty (30) days after the discovery cut-off. In the event the discovery cut-

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¹ The date occurring 30 days after the initial disclosure of experts falls on Saturday, March 16, 2024. The
parties agree to move this deadline to the following business day.

1 off is extended, the deadlines for filing dispositive motions automatically will be extended until thirty
2 (30) days after the new discovery cut-off date

3 **D. Pre-Trial Order:** The parties will prepare a consolidated pre-trial order on or
4 before **Friday, June 14, 2024**, which is not more than thirty (30) days after the date set for filing
5 dispositive motions in the case. This deadline will be suspended if dispositive motions are timely filed
6 until thirty (30) days after the decision of the dispositive motions or until further order of the court.
7 The disclosure required FRCP Rule 26(a)(3) and objections thereto, shall be made in the pre-trial
8 order.

9 **E. Extensions or Modifications of the Discovery Plan and Scheduling Order:**
10 LR 26-3 governs modifications or extensions of this discovery plan and scheduling order. Any
11 stipulation or motion to extend a deadline set forth in the discovery plan and scheduling order must be
12 made not later than twenty-one (21) days before the subject deadline. Any stipulation or motion to
13 extend the discovery cut-off period must be made no later than **Monday, March 25, 2024**, twenty-
14 one (21) days before the discovery cut-off date.

15 **7. Other Items:**

16 **A.** Pursuant to the electronic discovery amendments to the Federal Rules of Civil
17 Procedure effective December 1, 2006, the parties addressed the e-discovery issues pertaining to the
18 format of discovery. The parties do not anticipate discovery of native files or metadata at this time, but
19 each party reserves the right to request such electronic data as discovery progresses.

20 **B. Alternative Dispute Resolution:** The parties certify they met and conferred about
21 the possibility of using alternative dispute-resolution processes including mediation, arbitration, and if
22 applicable, early neutral evaluation (collectively, **ADR**) and determined that ADR is a viable option at
23 this time. An in-person settlement conference is scheduled with Judge Cam Ferenbach on December
24 18, 2023, at 10:00 a.m. BoNYM's client representative is permitted to attend the settlement conference
25 virtually. While not specifically addressed at the September 13, 2023 meeting, the parties also stipulate
26 that Northgate's insurance representative may attend the settlement conference virtually rather than
27 travel from out of state.

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1 **C. Alternative Forms of Case Disposition:** The parties certify they considered
 2 consent to trial by a magistrate judge and use of the short trial program and do not consent to either at this
 3 time.

4 **D. Electronic Evidence:** Not applicable as no jury trial has been demanded.

5 DATED this 20th day of September, 2023.

<p>AKERMAN LLP</p> <p><i>/s/ Troy A. Lawrence</i> ARIEL E. STERN, ESQ. Nevada Bar No. 8276 SCOTT R. LACHMAN, ESQ. Nevada Bar No. 12016 TROY A. LAWRENCE, ESQ. Nevada Bar No. 16102 1635 Village Center Circle, Suite 200 Las Vegas, NV 89134</p> <p><i>Attorneys for The Bank of New York Mellon fka The Bank of New York as Trustee for the registered holders of the CWABS, Inc., Asset- Backed Certificates, Series 2005-13</i></p>	<p>CORY READE DOWS AND SHAVER</p> <p><i>/s/ Christopher Reade</i> R. CHRISTOPHER READE, ESQ. Nevada Bar No. 6791 1333 N. Buffalo Drive, Suite 210 Las Vegas, NV 89128</p> <p><i>Attorneys for Maria Loyo-Morales</i></p>
<p>GORDON REES SCULLY MANSUKHANI, LLP</p> <p><i>/s/ Chad A. Harrison</i> WING YAN WONG, ESQ. Nevada Bar No. 13622 CHAD A. HARRISON, ESQ. Nevada Bar No. 13888 300 S. 4th Street, Suite 1550 Las Vegas, NV 89101</p> <p><i>Attorneys for Northgate Homeowners Association</i></p>	<p>NEVADA ASSOCIATION SERVICES</p> <p><i>/s/ Brandon Wood</i> BRANDON WOOD, ESQ. Nevada Bar No. 12900 6625 S. Valley View Blvd. Ste. 300 Las Vegas, NV 89118</p> <p><i>Attorneys for NAS</i></p>

22 **ORDER**

23 **IT IS SO ORDERED:**



24 **UNITED STATES MAGISTRATE JUDGE**
 25 Case No.: 2:16-cv-02400-MMD-VCF

26 DATED: 9-21-2023